

TRANSPORTATION CORPORATION OF AMERICA
P.O. BOX 218, CHICAGO HEIGHTS, ILLINOIS 60411

August 15, 1980

Interstate Commerce Commission
Recordation Clerk
Room 1211
12th & Constitution Avenue, N.W.
Washington, D. C. 20423

No. **0-231A039**
Date **AUG 18 1980**
Fee \$ **50.00**
ICC Washington, D. C.

Gentlemen:

Enclosed for recordation under the provision of Section 20(c) of the Interstate Commerce Act, as amended, are six (6) copies of the following:

Lease Agreement No. Equipment Lease dated 7/31/80
Rider No. - N/A dated - N/A
between TRANSPORTATION CORPORATION OF AMERICA and
Funding Systems Railcars Leasing, Inc.
Recordation No. - New
No. of Cars: One Hundred, Fifty (150)
Description of Cars: 100-Ton 52'6" Gondola Cars
Car Numbers: WSOR 5014 to 5163, both incl.

The names and address of the parties hereto are as follows:

Lessor:

Lessee:

Transportation Corporation of
America
P. O. Box 218
Chicago Heights, IL 60411

Funding Systems Railcars Leasing, Inc.
1000 RIDC Plaza
Pittsburgh, PA 15238

The undersigned is a Vice President of Transportation Corporation of America and has knowledge of the matters set forth within the enclosed documents. Kindly record and thereafter give to Alvord & Alvord, the remaining five copies of the enclosed document, marked "Recorded."

Attached hereto is a remittance in the sum of \$50.00 covering the required Recording Fee.

Cordially,

TRANSPORTATION CORPORATION OF AMERICA


J. P. Lynch
Vice President

12107

RECORDATION NO. Filed & Recorded

/cl

Enclosures

AUG 18 1980 - 1 40 PM

INTERSTATE COMMERCE COMMISSION

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AUG 18 1 39 PM '80
I.C.C.
FEE OPERATION BR.

Interstate Commerce Commission
Washington, D.C. 20423

OFFICE OF THE SECRETARY

Transportation Corp. Of America
P.O. Box 218
Chicago, Hights, IL. 60411

Dear **Sir:**

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on **8-18-80** at **1:40 PM**, and assigned re-recording number(s). **12107**

Sincerely yours,

Agatha L. Mergenovich
Agatha L. Mergenovich
Secretary

Enclosure(s)

12107

REGISTRATION NO. File & Record

AUG 18 1980 - 1 40 PM

INTERSTATE COMMERCE COMMISSION

EQUIPMENT LEASE

Dated as of JULY 31, 1980

between

TRANSPORTATION CORPORATION OF AMERICA, LESSOR

and

FUNDING SYSTEMS RAILCARS LEASING, INC., LESSEE

EQUIPMENT LEASE

THIS EQUIPMENT LEASE dated as of July 31, 1980 between Transportation Corporation of America, an Illinois corporation (the "Lessor") and Funding Systems Railcars Leasing, Inc. a Delaware Corporation (the "Lessee");

W I T N E S S E T H:

That for and in consideration of the premises and of the rental to be paid and the covenants hereinafter mentioned the parties hereby agree as follows:

SECTION 1. LEASE AND DELIVERY OF EQUIPMENT.

1.01. Lease.

The Lessor is purchasing from Thrall Car Manufacturing Company, (the "Manufacturer") the items of railroad equipment (collectively the "Equipment" and individually an "Item" or "Item of Equipment") described in Schedule A attached hereto and made a part hereof, built in accordance with the specifications (the "Specifications") referred to in said Schedule A. Upon delivery of each Item of Equipment and the acceptance of such Item of Equipment as provided in Section 1.02 hereof, the Lessor shall lease and let such Item of Equipment to the Lessee and the Lessee shall hire such Item of Equipment from the Lessor for the rental and on and subject to the terms and conditions herein set forth.

1.02. Inspection and Acceptance.

The Lessor will cause each Item of Equipment to be tendered to the Lessee on the Term Lease Commencement Date referred to in Section 2.01 hereof at the place of delivery set forth in Schedule A. Upon such tender, the Lessee will cause an inspector designated and authorized by the Lessee to inspect the same, and, if such Item of Equipment is found to conform to the Specifications, to accept delivery of such Item of Equipment on said Term Lease Commencement Date and to execute and deliver to the Lessor a Certificate of Acceptance in the form attached hereto as Schedule B (the "Certificate of Acceptance") with respect to such Items of Equipment.

1.03. Effect of Certificate of Acceptance.

The Lessee's execution and delivery to the Lessor of a Certificate of Acceptance with respect to each Item of Equipment shall conclusively establish, between Lessor and Lessee (but without prejudice to any rights either may have against the Manufacturer), that Lessee has inspected the Items of Equipment covered thereby, that each such Item of Equipment is acceptable to and accepted by the Lessee under this Lease, notwithstanding any defect (exclusive of inherent flaws) with respect to design, manufacture, condition or in any other respect, and that such Item of Equipment is in good order and condition and conforms to the Specifications applicable thereto and to all applicable United States Department of Transportation and Interstate Commerce Commission requirements and specifications, if any, and to all standards recommended by the Association of American Railroads applicable to railroad equipment of the character of the Equipment. The execution and delivery of such Certificate of Acceptance by the Lessee shall constitute a representation by the Lessee that it has no knowledge of any such defect.

SECTION 2. RENTALS AND PAYMENT DATES.

2.01. Rentals for Equipment.

The Lessee agrees to pay the Lessor for each Item of Equipment leased hereunder one interim and 60 consecutive quarterly instalments of rental ("Fixed Rental") payable in arrears in the amount set forth in Schedule A hereto, which instalments shall be payable on the first day of October, January, April and July of each year during the term of this Lease, the first full quarterly Fixed Rental Payment being due January 1, 1981. The interim rental payment for each Item of Equipment is payable on October 1, 1980, and shall be an amount equal to the Fixed Rental divided by 90, multiplied by the number of days including and from the Term Lease commencement date to October 1, 1980. The Term Lease commencement date for each Item of Equipment shall be the date that Item of Equipment is delivered to the Lessee. Lessor shall invoice Lessee for each rental payment.

2.02. Place of Payment.

All payments provided for in this Lease to be made to the Lessor shall be made to the Lessor at Post Office Box 218, Chicago Heights, Illinois 60411, or to such other party or such other place as the Lessor or its assigns pursuant to Section 16 hereof shall specify in writing.

2.03. Net Lease.

This Lease is a net lease and the Lessee shall not be entitled to any abatement of rent or reduction thereof, including, but not limited to, abatements or reductions due to any present or future claims of the Lessee against the Lessor under this Lease or otherwise or against any assignee of the Lessor pursuant to Section 16 hereof, nor except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or failure of title of the Lessor to the Equipment or any defect in or damage to or loss or destruction of all or any of the Equipment from any cause whatsoever, the taking or requisitioning of the Equipment by condemnation or otherwise, the lawful prohibition of the lessee's use of the Equipment, the interference with such use by any governmental body, private person or corporation, the invalidity or unenforceability or lack of due authorization or other infirmity of this Lease, or lack of right, power or authority of the Lessor to enter into this Lease, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events unless the obligation to pay the same shall be terminated pursuant to Section 11 hereof, or until the Equipment is surrendered pursuant to Section 13 hereof.

SECTION 3. TERM OF THE LEASE.

The term of this Lease as to each Item of Equipment shall begin on the date of the delivery to and acceptance by the Lessee of such Item of Equipment and, subject to the provisions of Section 11 hereof, shall terminate on ~~the date fifteen (15) years following the Term Lease Commencement Date.~~

SEPTEMBER 30, 1995.

JPL
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SECTION 4. OWNERSHIP AND MARKING OF THE EQUIPMENT.

4.01. Retention of Title.

The Lessor, as between the Lessor and the Lessee, shall and hereby does retain full legal title to the Equipment notwithstanding the delivery thereof to and the possession and use thereof by the Lessee.

4.02: Duty to Number and Mark Equipment.

The Lessee will cause each Item of Equipment to be kept numbered with its car number as set forth in Schedule A hereto and will keep and maintain, plainly, distinctly, permanently and conspicuously marked by a plate or stencil printed in contrasting color upon each side of each Item of Equipment in letters not less than one inch in height as follows:

"Leased from Transportation Corporation
of America, as Lessor, and subject to a
Security Interest recorded with the
Interstate Commerce Commission"

with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the title of the Lessor to such Item of Equipment, its rights under this Lease and the rights of any assignee under Section 16 hereof. The Lessee will not place any such Item of Equipment in operation or exercise any control or dominion over the same until the required legend shall have been so marked on both sides thereof and will replace promptly any such names and word or words which may be removed, defaced or destroyed. The Lessee will not change the car number of any Item of Equipment except with the consent of the Lessor, which consent shall not be unreasonably withheld, and in accordance with a statement of new car numbers to be substituted therefor, which consent and statement previously shall have been filed with the Lessor by the Lessee and filed, recorded or deposited in all public offices where this Lease shall have been filed, recorded or deposited.

4.03. Prohibition Against Certain Designations.

Except as above provided, the Lessee will not allow the name of any person, association or corporation to be placed on the Equipment as a designation that might be interpreted as a claim of ownership.

SECTION 5. DISCLAIMER OF WARRANTIES.

AS BETWEEN LESSOR AND LESSEE, THE LESSOR LEASES THE EQUIPMENT, AS-IS WITHOUT WARRANTY OR REPRESENTATION EITHER EXPRESS OR IMPLIED, AS TO (A) THE FITNESS OR MERCHANTABILITY OF ANY ITEM OR ITEMS OF EQUIPMENT INCLUDING WITHOUT LIMITATION THEIR VALUE, CONDITION, DESIGN OR OPERATION, (B) THE LESSOR'S TITLE THERETO, (C) THE LESSEE'S RIGHT TO THE QUIET ENJOYMENT THEREOF, OR (D) ANY OTHER MATTER WHATSOEVER, IT BEING AGREED THAT ALL SUCH RISKS, AS BETWEEN THE LESSOR AND THE LESSEE, ARE TO BE BORNE BY THE LESSEE. The Lessor hereby appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce, from time to time, in the name and for the account of the Lessor and the Lessee, as their interests may appear, but in all cases at the sole cost and expense of the Lessee, whatever claims and rights the Lessor may have as owner of the Equipment against the Manufacturer pursuant to the Manufacturer's Warranty Agreement, a copy of which is attached hereto as Schedule C.

SECTION 6. LESSEE'S INDEMNITY.

6.01. Scope of Indemnity.

The Lessee shall defend, indemnify and save harmless the Lessor and its successors and assigns from and against:

(a) any and all loss or damage of or to the Equipment, usual wear and tear excepted, and

(b) any claim, cause of action, damages, liability, cost or expense (including, without limitation, counsel fees and costs in connection therewith) which may be incurred in any manner by or for the account of any of them (i) relating to the Equipment or any part thereof, including, without limitation, the design, construction, purchase, delivery, installation, ownership, leasing or return of the Equipment or as a result of the use, maintenance, repair, replacement, operation or the condition thereof

(this subsection (i) only applies as to defects discoverable by Lessor or Lessee as distinguished from inherent flaws for which this indemnity doesn't apply), (ii) by reason or as the result of any act or omission of the Lessee for itself or as agent or attorney-in-fact for the Lessor hereunder, (iii) as a result of claims for patent infringements, or (iv) as a result of claims for negligence or strict liability in tort. Notwithstanding the terms of the preceeding sentence, any sums received for or by the Lessee because of a breach of any warranty or any negligence shall be retained by the Lessee up to the then present value of the then not due Fixed Rental payment relative to the Item of Equipment which was the subject of such breach or negligence, all monies above that sum shall be paid to the Lessor ("Then Present Value of Fixed Rental Payments"). Lessee shall remain obligated to pay Lessor all rental pursuant to the terms of this Lease or Casualty Value, as the case may be, even though Lessee has received the then Present Value of Fixed Rental Payments.

6.02. Continuation of Indemnities and Assumptions.

The indemnities and assumptions of liability in this Section 6 contained shall continue in full force and effect notwithstanding the termination of this Lease, or the termination of the term hereof in respect of any one or more Items of Equipment, whether by expiration of time, by operation of law or otherwise; provided, however, that such indemnities and assumptions of liability shall not apply in respect of any matters referred to in Section 6.01 hereof, occurring after the termination of this Lease, except for any such matters occurring after the termination arising in connection with the Lessee's assembling, delivering, or storing of the Equipment as provided in Section 13 or 15, as the case may be. The Lessee shall be entitled to control, and shall assume full responsibility for, the defense of such claim or liability.

SECTION 7. RULES, LAWS AND REGULATIONS.

The Lessee agrees to comply with all governmental laws, regulations, requirements and rules (including, without limitations, the rules of the United States Department of Transportation and the Interstate Commerce Commission) and the current Interchange Rules or supplements thereto of the Mechanical Division, Association of American Railroads, as the same may be in effect from time to time with respect to the use, maintenance and operation of each Item of Equipment subject to this Lease. In case any equipment or appliance should be required to be changed or replaced, or in case any additional equipment is required to be installed on such Item of Equipment in order to comply with such laws, regulations, requirements and rules, the Lessee agrees to make such changes, additions and replacements at its own expense. Lessor agrees that upon the written request of the Lessee it will use its best efforts to assist Lessee to obtain financing on then current terms so as to provide funds for the Lessee to pay such expense of the Lessee.

SECTION 8. USE AND MAINTENANCE OF EQUIPMENT.

The Lessee shall use the Equipment only in the United States of America, (however, the Equipment may be in occasional service in Canada but no Item of Equipment shall be used predominantly outside the United States of America within the meaning of the U.S. Internal Revenue Code, nor may the Equipment be used by any person in whose hands such Item would not qualify as "Section 38" property within the meaning of the U.S. Internal Revenue Code) and only in the manner for which it was designed and intended and so as to subject it only to ordinary wear and tear. No Item of Equipment may be used in intracompany Service without prior written approval by the Lessor. The Lessee shall, at its own cost and expense, maintain and keep the Equipment in good order, condition and repair, ordinary wear and tear excepted, suitable for use in interchange. The Lessee shall not change, modify or alter any Item of Equipment nor make any additions or improvements to any Item of Equipment without the prior written authority and approval of the Lessor which shall not be unreasonably withheld; provided, that the Lessor in its sole discretion may refuse to approve any change, modification, alteration or installation in or to any Item of Equipment (i) which is prohibited by any governmental law, regulation, requirement or rule, (ii) which impairs the value of such Item or (iii) which impairs the use of such

Item in the service for which the Item was originally designed. Any parts installed or replacements made by the Lessee upon any Item of Equipment shall be considered accessions to such Item of Equipment and title thereto shall be immediately vested in the Lessor, without cost or expense to the Lessor. Lessee may at the end of the term of this Lease remove any additional part it added to any Item of the Equipment if: a) such additional part is not at such renewal date required by any rule or regulation to be attached to the Item; b) such removal does not injure or cause injury to the Item, and c) the Lessee is not in default of this Lease at the date of such removal.

SECTION 9. LIENS ON THE EQUIPMENT

The Lessee shall pay or satisfy and discharge any and all claims against, through or under the Lessee and its successors or assigns which, if unpaid, might constitute or become a lien or a charge upon the Equipment, and any liens or charges which may be levied against or imposed upon any Item of Equipment as a result of the failure of the Lessee to perform or observe any of its covenants or agreements under this Lease, but the Lessee shall not be required to pay or discharge any such claims so long as it shall, in good faith and by appropriate legal proceedings contest the validity thereof in any reasonable manner which will not affect or endanger the title and interest of the Lessor to the Equipment. The Lessee's obligation under this Section 9 shall survive the termination of this Lease.

SECTION 10. FILING, PAYMENT OF FEES AND TAXES.

10.01 Filing.

The Lessor will, at its sole expense, cause this Lease, and the first security agreement and/or assignment, if any, executed by the Lessor with respect to the Equipment or this Lease to be duly filed, recorded or deposited with the Interstate Commerce Commission in accordance with 49 U.S.C. §11303 and in such other places within or without the United States as the Lessor or any assignee pursuant to Section 16 hereof determines is necessary or appropriate for the protection of its title or the security interest of the secured party under such security agreement and/or assignment. The Lessee will, from time to time, do and perform any other act and will execute, acknowledge, deliver, file, register and record (and will refile, re-register or re-record whenever required) any and all further instruments required by law or reasonably requested by the Lessor, for the purpose of protecting the Lessor's title to, or such secured party's security interest in, the Equipment to the satisfaction of the Lessor's or such secured party's counsel or for the purpose of carrying out the intention of this Lease, and in connection with any such action, will deliver to the Lessor proof of such filings and an opinion of the Lessee's counsel that such action has been properly taken. The Lessee will pay all costs, charges and expenses incident to any such filing, re-filing, recording and re-recording or depositing and redepositing of any such instruments or incident to the taking of such action, except in the case of filings required by the first sentence of this Section 10.01.

10.02. Payment of Taxes.

All payments to be made by the Lessee hereunder will be free of expense to the Lessor for collection or other charges and will be free of expense to the Lessor with respect to the amount of any local, state, federal or foreign taxes (other than any United States federal, foreign, state or local income tax) payable by the Lessor in consequence of the receipt of payments provided herein and other than the aggregate of all franchise taxes measured by net income based on such receipts, up to the amount of any such taxes which would be payable to the state and city in which the Lessor has its principal place of business without apportionment to any other state, except any such tax which is in

substitution for or relieves the Lessee from the payment of taxes which it would otherwise be obligated to pay or reimburse as herein provided), assessments or license fees and any charges, fines or penalties in connection therewith (hereinafter called "Imposition") hereafter levied or imposed upon or in connection with or measured by this Lease or any, rental, use, payment, shipment, delivery or transfer of title under the terms hereof, all of which Impositions the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. The Lessee will also pay promptly all Impositions which may be imposed upon any Item of Equipment or for the use or operation thereof or upon the earnings arising therefrom or upon the Lessor solely by reason of its ownership thereof and will keep at all times all and every part of such Item of Equipment free and clear of all Impositions which might in any way affect the title of the Lessor or result in a lien (other than purchase money security interest caused by the Lessor's purchase) upon any such Item of Equipment; provided, however, that the Lessee shall be under no obligation to pay any Impositions so long as it is contesting in good faith and by appropriate legal proceedings such Impositions and the nonpayment thereof does not, in the advance opinion of the Lessor, adversely affect the title, property or rights of the Lessor hereunder. If any Impositions shall have been charged or levied against the Lessor directly and paid by the Lessor, the Lessee shall reimburse the Lessor on presentation of invoice therefor. Prior to making such payment, the Lessor shall promptly notify the Lessee of the Impositions charged or levied, and the Lessee shall have the opportunity to contest in good faith and by appropriate legal proceedings such Impositions, at its sole expense.

In the event any reports with respect to Impositions are required to be made on the basis of individual Items of Equipment, the Lessee will either make such reports in such manner as to show the interests of the Lessor and any Assignee in such Items of Equipment or notify the Lessor and such assignee of such requirement and make such reports in such manner as shall be satisfactory to the Lessor and such assignee.

In the event that, during the continuance of this Lease, any Imposition accrues or becomes payable or is levied or assessed (or is attributable to the period of time during which this Lease is in existence) which the Lessee is or will be obligated to pay or reimburse, pursuant to this Section 10.02, such liability shall continue, notwithstanding the expiration of this Lease, until all such Impositions are paid or reimbursed by the Lessee.

SECTION 11. INSURANCE: PAYMENT FOR CASUALTY OCCURRENCE.

11.01 Insurance

Lessee agrees that it will at all times during the term of this Lease and at its own cost and expense keep each Item of Equipment insured against loss by fire, windstorm and explosion and with extended coverage and against such other risks as are customarily insured against by companies owning property of a similar character and engaged in a business similar to that engaged in by Lessee at not less than the full insurable value (actual replacement value less actual physical depreciation) thereof and in any event not less than the Casualty Value (as defined in

Section 11.06 hereof) of such Item of Equipment as of the next following Fixed Rental payment date, and will maintain general public liability insurance with respect to the Equipment against damage because of bodily injury, including death, or damage to property of others, such insurance to afford protection to the limit of not less than \$10,000,000 in the aggregate in any one year. Any such insurance may have applicable theretodeductible provisions to no greater extent than in effect for insurance coverage for equipment similar to the Equipment owned by Lessee and may be carried under blanket policies maintained by Lessee so long as such policies otherwise comply with the provisions of this Section 11.01. All such insurance shall cover the interest of Lessor, Lessee and any assignees pursuant to Section 16 hereof in the Equipment or, as the case may be, shall protect Lessor and Lessee in respect of risks arising out of the condition, maintenance, use, ownership or operation of the Equipment and shall provide that losses, if any, in respect of the Equipment shall be payable to Lessee and Lessor as their respective interests may appear; provided, however, that upon receipt by Lessee of notice of the assignment of this Lease and the rents and other sums payable hereunder, as provided in Section 16 hereof, Lessee shall cause the insurance on the Equipment to provide that the losses, if any, shall be payable (except as provided below) to the assignee specified in such notice (referred to in this Section 11 as the "Secured Assignee") under a standard mortgage loss payable clause satisfactory to Lessor and the Secured Assignee which shall provide that the insurer thereunder waives all rights of subrogation against Lessor, Lessee and the Secured Assignee, that thirty days' prior written notice of cancellation shall be given to the Secured Assignee and that such insurance as to the interest of the Secured Assignee therein shall not be invalidated by any act or neglect of Lessor or Lessee or by any foreclosure or other remedial proceedings or notices thereof relating to the Equipment or any interest therein nor by any change in the title or ownership of the Equipment or any interest therein or with respect thereto, or by the use or operation of the Equipment for purposes more hazardous or in a manner more hazardous than is permitted by such policy. No such policy shall contain a provision relieving the insurer thereunder of liability for any loss by reason of the existence of other policies of insurance covering the Equipment against the peril involved, whether collectible or not. The loss, if any, under any policy covering the Equipment shall be adjusted with the insurance companies by Lessee, subject to the approval (such approval shall not be unreasonably withheld) of Lessor and the Secured Assignee if the loss exceeds \$75,000. The loss so adjusted shall be paid to the Secured Assignee, if any, pursuant to said loss payable clause unless said loss is \$75,000 or less, in which case said loss shall be paid directly to Lessee. All such policies shall provide that the loss, if any, thereunder shall be adjusted and paid as provided in this Lease. Lessee shall furnish Lessor and the Secured Assignee, if any, with certificates or other satisfactory evidence of maintenance of the insurance required hereunder and with respect to any renewal prior to the expiration date of the original policy or policies. All insurance provided for in this Section 11.01 shall be effected with insurance companies approved by Lessor and the Secured Assignee, which approval shall not be unreasonably withheld.

The proceeds of any insurance received by Lessor or the Secured Assignee on account of or for any loss or casualty in respect of any Item of Equipment shall be released to Lessee either (i) upon a written application signed by the President, any Vice President or the

Treasurer of Lessee for the payment of, or to reimburse Lessee for the payment of, the cost of repairing, restoring or replacing the Item of Equipment which has been lost, damaged or destroyed (which application shall be accompanied by satisfactory evidence of such cost and of the completion of such repair, restoration or replacement), or (ii) if this Lease is terminated with respect to such Item of Equipment pursuant to Section 11.04 promptly upon payment by Lessee of the Casualty Value to such Secured Assignee; provided that, if Lessee is at the time of the application in default in the payment of any other liability of Lessee to Lessor hereunder, such proceeds shall be applied against such liability.

11.02. Duty of Lessee to Notify Lessor.

In the event that any Item of Equipment shall be or become lost, stolen, destroyed, or, in the opinion of the Lessee (as evidenced by a certificate from Lessee's officer charged with such matters and such other evidence as Lessor may reasonably require for verification), irreparably damaged during the term of this Lease, including any renewal term hereunder, or thereafter while the Item of Equipment is in the possession of the Lessee pursuant to Section 13 or 15 hereof, or shall be requisitioned or taken over by any governmental authority under the power of eminent domain or otherwise during the term of this Lease, including any renewal terms hereunder (any such occurrence, except for any requisition which by its terms is for a stated period which does not exceed the term of this Lease, being hereinafter called a "Casualty Occurrence"), the Lessee shall promptly and fully (after it has knowledge of such Casualty Occurrence) inform the Lessor and the Secured Assignee in regard thereto and shall pay the Casualty Value (as defined in Section 11.06 hereof) of such Item in accordance with the terms hereof.

11.03. Payment for Casualty Loss.

In the event of a Casualty Occurrence with respect to any Item of Equipment, the Lessee shall pay to the Lessor (i) a sum equal to the Casualty Value of such Item of Equipment as of the date of such payment, (ii) the accrued Fixed Rental installment due on such payment date for such Item of Equipment, (iii) interest, if any, due on late payments of rent with respect to such Item of Equipment to the date of payment and (iv) all other unpaid amounts due hereunder solely with respect to such Item of Equipment. The payments required to be made by the Lessee pursuant to this Section 11.03 shall be made to the Lessor on the next succeeding Fixed Rental payment date unless such Casualty Occurrence occurs less than 15 days prior to the next succeeding Fixed Rental payment date, in which case such payments shall be made on either the next succeeding Fixed Rental Payment date of the second succeeding Fixed Rental payment date after such Casualty Occurrence.

11.04. Rent Termination.

Upon (and not until) payment of the Casualty Value in respect of any Item or Items of Equipment, the obligation to pay rent for such Item or Items of Equipment accruing subsequent to the Casualty Value payment date shall terminate, but the Lessee shall continue to pay rent for all other Items of Equipment.

11.05. Disposition of Equipment.

The Lessee shall, as agent for the Lessor, dispose of such Item or Items of Equipment having suffered a Casualty Occurrence as soon as it is able to do so for the fair market value thereof. Any such disposition shall be on an "as-is, where-is" basis without representation or warranty, express or implied. As to each separate Item of Equipment so disposed of the Lessee may retain all amounts arising from such disposition plus any insurance proceeds and damages received by the Lessee by reason of such Casualty Occurrence. In disposing of such Item of Equipment, the Lessee shall take such action as the Lessor shall reasonably request to terminate any contingent liability which the Lessor might have arising after such disposition from or connected with such Item of Equipment.

11.06. Casualty Value.

The "Casualty Value" of each item of equipment as of the date of the casualty occurrence shall be that amount so determined under Rule 107 of the Interchange Rules of the Association of American Railroads or any successor rule.

11.07. Risk of Loss.

The Lessee shall bear the risk of loss and, except as hereinabove in this Section 11 provided, shall not be released from its obligations hereunder in the event of any Casualty Occurrence to any Item of Equipment from and after the date hereof and continuing until payment of the Casualty Value and Fixed Rental installment due on and prior to the date of payment of such Casualty Value in respect of such Item of Equipment has been made, such Item or the salvage thereof has been disposed of by the Lessee and the title to such Item or the salvage thereof and all risk of loss and liabilities incident to ownership have been transferred to the purchaser of such Item or the salvage thereof.

11.08. Eminent Domain.

In the event that during the term of this Lease the use of any Item of Equipment is requisitioned or taken by any governmental authority under the power of eminent domain or otherwise for an indefinite period or for a stated period which does not exceed the term of this Lease, the Lessee's obligation to pay rent shall continue for the duration of such requisitioning or taking. The Lessee shall be entitled to receive and retain for its own account all sums payable for any such period by such governmental authority as compensation for requisition or taking of possession to an amount equal to the rent paid or payable hereunder for such period, and the balance, if any, shall be payable to and retained by the Lessor as its sole property.

SECTION 12. REPORTS.

12.01 Financial Reports.

Lessee will furnish to Lessor and any assignee of the Lessor pursuant to Section 16 hereof

or to such other person as Lessor shall designate:

(i) as soon as available, but in no event more than ninety days after the close of each fiscal year of Guarantor commencing with the year 1980, Guarantor's complete annual financial report for the preceding fiscal year, all in reasonable detail, prepared on a consolidated and consolidating basis and certified by independent certified public accountants of recognized national standing selected by Guarantor;

(ii) as soon as available, but in no event more than 90 days after the close of each quarterly period for each fiscal year (other than the last quarterly period for such fiscal year) of the Lessee the balance sheet of the Lessee as at the end of such period and an income and retained earnings statement of the Lessee for the portion of such fiscal year ending with such period; and

(iii) such other reports and information as Lessor may reasonably require concerning the Equipment or the financial condition of Lessee, including, but not limited to, the status of the maintenance, use and condition of the Equipment and the compliance by Lessee with the terms and conditions of this Lease.

12.02. Duty of Lessee to Furnish.

On or before January 31 in each year throughout the term of this Lease, commencing with the year 1981, the Lessee will furnish to the Lessor and any assignee of the Lessor pursuant to Section 16 hereof an accurate statement, as of the preceding December 31 signed by a duly authorized officer of the Lessee (a) showing the amount, description and numbers of the Items of Equipment then leased hereunder, the amount, description and numbers of all Items of Equipment that may have suffered a Casualty Occurrence during the preceding 12 months (or since the date of this Lease, in the case of the first such statement), and such other information regarding the condition or repair of the Equipment as the Lessor may reasonably request, (b) stating that, in the case of all Equipment repainted during the period covered by such statement, the markings required by Section 4.02 hereof shall have been preserved or replaced and (c) stating that all Equipment is on the date of such certificate in operation and is in all respects maintained in accordance with the terms of said Lease, except for such Items of Equipment as are specifically excluded from such statement in said certificate.

12.03. Lessor's Inspection Rights.

The Lessor and any assignee of the Lessor pursuant to Section 16 hereof each shall have the right, at its sole cost and expense, by its authorized representative, to inspect the Equipment and the Lessee's records with respect thereto, at such times as shall be reasonably necessary to confirm to the Lessor or, as the case may be, such assignee,

the existence and proper maintenance thereof during the continuance of this Lease. Lessee shall, whenever requested by the Lessor or any such assignee, promptly advise Lessor or such assignee of the exact location of the Equipment insofar as may be practicable.

SECTION 13. RETURN OF EQUIPMENT UPON EXPIRATION OF TERM.

Upon the expiration of the term of this Lease with respect to any Item of Equipment, the Lessee will, at its own cost and expense, at the request of the Lessor, deliver possession of such Item of Equipment to the Lessor upon such storage tracks as the Lessor may designate in the state of Indiana or Illinois, or in the absence of such designation, as the Lessee may select having given 30 days' prior written notice to the Lessor or the Lessee will immediately upon the expiration of the term of the lease deliver each Item of Equipment to a connecting carrier for shipment, all as directed by the Lessor upon not less than 30 days' written notice to the Lessee. The assembling and delivery of each such Item is to be at the risk and expense of the Lessee. The assembling and delivery of the Equipment as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee to so assemble and deliver the Equipment.

SECTION 14. DEFAULT.

14.01 Events of Default.

Any of the following events shall constitute an Event of Default hereunder:

(a) The Lessee shall fail to make when due payment of any part of the rental or other sums provided in Section 2 or 11 or 20.03 hereof and the failure to make any such payment shall continue for more than five days (provided, however, that the Lessee shall be entitled to an additional five-day grace period with respect to any two Fixed Rental payments which become due during any "lease year" (which shall mean, for the purposes hereof, the 12-month period commencing with the Term Lease Commencement Date and each of the succeeding 12-month periods thereafter during the term of this lease)); or

(b) The Lessee shall make or permit any unauthorized assignment or transfer of this Lease, or of possession of the Equipment, or any portion thereof (not so as to limit Lessee's rights under §17.01 hereof); or

(c) The Lessee shall fail to observe or perform any other of the covenants, conditions and agreements on the part of the Lessee contained herein and such failure shall continue for thirty days after written notice thereof has been given by the Lessor to the Lessee; or

(d) Any representation or warranty made by the Lessee herein or in any statement or certificate furnished to the Lessor or its assigns pursuant to or in connection with this Lease is untrue in

any material respect as of the date of issuance or making thereof;
or

(e) Failure to cure within 30 days the acceleration of the due date of any evidence of indebtedness of the Lessee for borrowed money or under any indenture, agreement or similar instrument under which indebtedness of the Lessee for borrowed money may be issued; or

(f) The Lessee shall become insolvent or bankrupt or admit in writing its inability to pay its debts as they mature or shall make an assignment for the benefit of its creditors; or

(g) Bankruptcy, reorganization, arrangement or insolvency proceedings or other proceedings for relief under any bankruptcy or similar law or laws for the relief of debtors shall be instituted by or against Lessee; or Lessee shall permit or there shall occur any involuntary transfer of its interest hereunder or of all or substantially all of Lessee's property by bankruptcy or by the appointment of a receiver or trustee or by execution or by any judicial or administrative decree or process or otherwise; unless in every such case such proceedings (if instituted against the Lessee) shall be dismissed or such assignment, transfer, decree or process shall within 60 days from the filing or other effective date therein be nullified, stayed or otherwise rendered ineffective, or unless any such receiver or trustee shall within 60 days from the date of his appointment adopt and assume this Lease pursuant to due authority of law and of the court appointing him.

14.02. Remedies.

If any Event of Default has occurred and is continuing, the Lessor, at its option, may:

(a) Proceed by appropriate court action or actions, either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof; or

(b) By notice in writing to the Lessee, terminate this Lease, whereupon all right of the Lessee to the use of the Equipment shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as hereinafter provided; and thereupon, the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Equipment may be located and take possession of all or any of such Equipment and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Equipment for any purpose whatever, but the Lessor, shall, nevertheless, have a right to recover from the Lessee any and all amounts which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the

rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee (i) as damages for loss of the bargain and not as a penalty, a sum, with respect to each Item of Equipment, which represents the excess of the present value, at the time of such termination, of all rentals for such Item which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease over the then present value of the then fair rental value of such Item for such period computed by discounting from the end of such term to the date of such termination rentals which the Lessor obtains for the use of such Item during such period, such present value to be computed in each case on a basis of a 6% per annum discount, compounded monthly from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, and (ii) any damages and expenses, other than for a failure to pay rental, in addition thereto, including reasonable attorneys' fees, which the Lessor shall have sustained by reason of the breach of any covenant or covenants of this Lease other than for the payment of rental.

14.03. Cumulative Remedies.

The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify any of the remedies herein provided, to the extent that such waiver is permitted by law. The Lessee hereby waives any and all existing or future claims of any right to assert any offset against the rent payments due hereunder, and agrees to make the rent payments regardless of any offset or claim which may be asserted by the Lessee on its behalf in connection with the lease of the Equipment.

14.04. Lessor's Failure to Exercise Rights.

The failure of the Lessor to exercise the rights granted it hereunder upon any occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies.

SECTION 15. RETURN OF EQUIPMENT UPON DEFAULT.

15.01. Lessee's Duty to Return.

If the Lessor or any assignee of the Lessor pursuant to Section 16 hereof shall terminate this Lease pursuant to Section 14 hereof, the Lessee shall forthwith deliver possession of the Equipment to the Lessor. For the purpose of delivering possession of any Item of Equipment to the Lessor as above required, the Lessee shall at its own cost,

expense and risk (except as hereinafter stated):

(a) Forthwith assemble and place such Equipment on such storage tracks in the states of Indiana or Illinois as the Lessor may designate or, in the absence of such designation within a reasonable time, as the Lessee may select;

(b) Provide storage for such Equipment on such tracks for a period not exceeding 90 days after written notice has been given to the Lessor specifying the place of storage and the car numbers of the Items of Equipment so stored; and

(c) Deliver any Items of Equipment at any time within such 180 days' period, to any connecting carrier on tracks at any place within Indiana or Illinois for shipment, all as the Lessor may direct in writing.

15.02. Specific Performance.

The assembling, delivery, storage of the Equipment as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver and store the Equipment.

15.03. Lessor Appointed Lessee's Agent.

Without in any way limiting the obligations of the Lessee under the foregoing provisions of this Section 15, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Items of Equipment to the Lessor, to demand and take possession of such Item in the name and on behalf of the Lessee from whomsoever shall be at the time in possession of such Items.

SECTION 16. ASSIGNMENTS BY LESSOR.

This Lease and all rent and other sums due and to become due hereunder may be assigned in whole or in part by the Lessor without the consent of the Lessee, but the Lessee shall be under no obligation to any assignee of the Lessor except upon written notice of such assignment from the Lessor.

Upon notice to the Lessee of any such assignment the rent and other sums payable by the Lessee which are the subject matter of the assignment shall be paid to or upon the written order of the assignee. No such assignee shall be bound by or obligated to perform or see to the performance of any duty, covenant or condition or warranty (express or implied) made by the Lessor or required to be observed or performed by the Lessor under any of the terms hereof, but on the contrary, the Lessee by its execution hereof, acknowledges and agrees that notwithstanding such assignment each and all of such covenants and agreements of the Lessor and all representations and warranties shall survive such assignment and shall be and remain the sole liability of the Lessor. Without limiting the foregoing, the Lessee further acknowledges and agrees that (i) the rights of any such assignee in and to the sums payable by the Lessee under any provisions of this Lease shall not be subject to any abatement whatsoever, and shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever whether by reason of failure of or defect in the Lessor's title, or any interruption from whatsoever cause (other than from a wrongful act of such assignee) in the use, operation or possession of the Equipment or any part thereof, or any damage to or loss or destruction of the Equipment or any part thereof, or by reason of any other indebtedness or liability, howsoever and whenever arising, of the Lessor to the Lessee or to any other person, firm or corporation or to any governmental authority or for any cause whatsoever, it being the intent hereof that, except in the event of a wrongful act on the part of such assignee, the Lessee shall be unconditionally and absolutely obligated to pay such assignee all of the rents and other sums which are the subject matter of the assignment, and (ii) the assignee shall have the sole right to exercise all rights, privileges and remedies (either in its own name or in the name of the Lessor for the use and benefit of such assignee) which by the terms of this Lease are permitted or provided to be exercised by the Lessor.

SECTION 17. ASSIGNMENTS BY LESSEE: USE AND POSSESSION.

SECTION 17.01. Lessee's Rights to the Equipment.

So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to possession and use of the Equipment in accordance with the terms of this Lease. The Lessee shall not make any long term assignment of any Item of Equipment nor shall it, without the prior written consent of the Lessor, transfer or encumber its Leasehold interest under this Lease as to any Item of Equipment (except pursuant to and in accordance with the provisions of Section 17.02 hereof).

Notwithstanding the foregoing Lessee is permitted to enter into short term (per diem) lease arrangements without the permission of the Lessor. So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to and shall have the exclusive use and possession of the Equipment. Each item of Equipment may be used by others, in accordance with the direction of the Lessee, in the usual interchange of traffic, all to be in accordance with Section 8 and with the other terms and provisions of this lease. The Lessee may sublease each and every Item of Equipment provided that: (i) no Event of Default under the Lease shall have occurred and be continuing and no event shall have occurred and be continuing which, with the lapse of time or the giving of notice, or both, would constitute an Event of Default under the Lease, and (ii) the Sublessee shall agree that its rights are subordinate to all the rights of the Lessor. No such permitted use or sublease shall relieve the Lessee of any of the obligations, liabilities or duties of the

Lessee hereunder, which shall be and remain those of a principal and not as a surety. The Lessee may receive and retain for its own account such compensation for the use or sublease of the Equipment by others as the Lessee may determine.

17.02. Merger, Consolidation or Acquisition of Lessee.

Nothing in this Section 17 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease in the Equipment or possession of the Equipment to any corporation (which shall have duly assumed the obligations hereunder of the Lessee by written instrument delivered to the Lessor) which shall be the parent of the Lessee or into or with which the Lessee shall have become merged or consolidated or which shall have acquired all or substantially all of the property of the Lessee, provided that such assignees, successors or transferees will not, upon the effectiveness of such merger or consolidation or acquisition of properties, be in default under any provision of this Lease and that such merger or consolidation or acquisition of properties shall not alter in any way the Lessee's obligations to the Lessor hereunder which shall be and remain those of a principal and not a surety.

This Lease may be assigned to the Upper Marion and Plymouth Railroad Company and/or the Wisconsin & Southern Railroad Company by the Lessee.

SECTION 18. CERTIFICATE OF OFFICERS OF LESSEE AND OPINION OF COUNSEL FOR LESSEE.

18.01. Lessee's Certificate.

Concurrently with the delivery and acceptance of the first Item of Equipment hereunder, and upon any assignment by the Lessor to any assignee pursuant to Section 16 hereof, the Lessee will deliver to the Lessor and/or any such assignee a certificate of the President, Vice President or Treasurer of the Lessee, addressed to the Lessor and/or any such assignee in scope and substance satisfactory to such parties, to the effect that:

(a) The Lessee is a corporation legally incorporated and validly existing, in good standing, under the laws of the State of its incorporation;

(b) The Lessee has the corporate or other power and authority to own its property and carry on its business as now being conducted and is duly qualified to do business as a foreign corporation in all states in which such qualification is necessary to carry out the terms of the Lease;

(c) Assuming due authorization and execution by the other party this Lease has been duly authorized, executed and delivered by the Lessee and constitutes the valid, legal and binding agreement of the Lessee enforceable in accordance with its terms except as limited by bankruptcy, insolvency or similar laws of general application affecting the enforcement of creditors' rights generally;

(d) No approval, consent or withholding of objection is required from any public regulatory body with respect to the entering into or performance by the Lessee of the Lease;

(e) The execution and delivery by the Lessee of the Lease does not violate any provision of any law, any order of any court or governmental agency, the Charter or By-laws of the Lessee, or any indenture, agreement, or other instrument to which the Lessee is a party or by which it, or any of its property is bound, and will not be in conflict with, result in the breach of, or constitute (with due notice and/or lapse of time) a default under any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Lessee, except as contemplated and permitted hereby;

(f) Except as heretofore disclosed in writing to Lessor and its assignee pursuant to Section 16 of this Lease, if any, there is no action, suit or proceeding pending nor, to the knowledge of such officer, is there any basis for, or is any such action, suit or proceeding threatened against or affecting, the Lessee at law or in equity before any federal, state or local governmental authority or agency which, if adversely determined, would result in any material adverse change in the property or assets or in the condition, financial or otherwise, of the Lessee or would impair its ability to perform its obligations under this Lease; and

(g) As to any other matters which the Lessor shall reasonably request.

18.02. Opinions of Counsel.

At the commencement of the term of this Lease and upon any assignment by the Lessor to any assignee pursuant to Section 16 hereof, the Lessee will deliver to the Lessor the written opinion of Messrs. McCann, Garland, Ridall and Burke, counsel for the Lessee and for the Guarantor, addressed to the Lessor and/or to any such assignee under Section 16 hereof, in scope and substance satisfactory to the Lessor, covering the effectiveness and enforceability of the Guarantee, and matters referred to in paragraphs (a) through (f), inclusive, of Section 18.01 and as to any other matters which the Lessor shall reasonably request. (With respect to (f) the Opinion will only relate to items known to counsel).

SECTION 19. INTEREST ON OVERDUE RENTALS AND AMOUNTS PAID BY LESSOR.

Anything to the contrary herein contained notwithstanding, any nonpayment of rentals due hereunder, or amounts expended by the Lessor on behalf of the Lessee, shall result in the additional obligation on the part of the Lessee to pay also an amount equal to 12% per annum (or the lawful rate, whichever is less) on the overdue rentals and amounts expended for the period of time during which they are overdue or expended and not repaid.

SECTION 20. MISCELLANEOUS.

20.01. Limitations of Liability.

It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that no liability or responsibility is assumed by nor shall at any time be asserted or enforceable against any incorporator or any past, present or future subscriber to the capital stock of, the Lessor, on account of this Lease or on account of any representation, covenant, undertaking or agreement of the Lessor in this Lease contained, either express or implied, all such liability, if any, being expressly waived and released by the Lessee herein and by all persons claiming by, through or under the Lessee; excepting, however, that the Lessee or any person claiming by, through or under it, making claim hereunder, may look to the Equipment for satisfaction of the same subject to the rights of or its assignee under the Loan Agreement.

20.02. Notices

Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when deposited in the United States certified mails, first class, postage prepaid, addressed as follows:

If to the Lessor: Transportation Corporation of America
P. O. Box 218
Chicago Heights, IL 60411

If to the Lessee: Funding Systems Railcars Leasing, Inc.
1000 RIDC Plaza
Pittsburgh, Pennsylvania 15238

or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing.

20.03. Right of Lessor to Perform.

If the Lessee shall fail to comply with any of its covenants herein contained, the Lessor may, but shall not be obligated to, make advances to perform the same and to take all such action as in the Lessor's opinion may be necessary to obtain such performance. All payments so made by the Lessor and all costs and expenses (including; without limitation, reasonable attorneys' fees and expenses) incurred in connection therewith shall be payable by the Lessee to the Lessor upon demand, with interest at the rate of 12% per annum. Lessee's failure to pay Lessor any or all of such sum, immediately upon demand of Lessor, shall be an Event of Default.

20.04. Execution in Counterparts.

This Lease, and any lease supplemental hereto, may be executed in several counterparts, each of which so executed shall be deemed to be an original and in each case such counterparts shall constitute but one and the same instrument.

20.05. Law Governing.

This Lease shall be construed in accordance with the laws of the State of Indiana; provided, however, that the parties shall be entitled to all rights conferred by any applicable Federal statute, rule or regulation.

20.06. Headings and Table of Contents.

All Section headings and the Table of Contents are inserted for convenience only and shall not affect any construction or interpretation of this Lease.

20.07. Severability.

Any provision of this Lease which is prohibited or unenforceable in any jurisdiction shall be as to such jurisdiction ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provisions in any other jurisdiction.

Section 20.08. Right Of First Refusal To Purchase

Provided that this Lease has not been earlier terminated and no Event of Default has occurred and is continuing hereunder, in the event the Lessor, in its sole discretion, elects to sell any or all of the Items of Equipment to third parties at the expiration of the original term of this Lease or the extension thereof, if any, the Lessee shall be given written notice of such intention prior to the expiration of such term. Within ten days of receipt of such notice from the Lessor of its intention to sell, the Lessee may exercise a Purchase Right as to all of those Items of Equipment the Lessor so intends to sell, at the then Fair Market Value of those Items of Equipment by delivery to the Lessor of a written notice specifying a date of purchase, which date shall not be later than 10 days after the termination date of this Lease. Such notice so shall specify the Fair Market Value as determined by the Lessee. In the event the Lessor does not agree, in its sole discretion, to the Lessee's then determined Fair Market Value it shall so notify the Lessee within 10 days after the Lessor so receives such notice from the Lessee. If the Lessor and Lessee are unwilling to mutually agree, within 10 days of such notice, to a Fair Market Value and also to all other Terms and Conditions of such sale, the Right of First Refusal to purchase hereunder shall thereupon immediately terminate.

Section 20.09. Right to Quiet Enjoyment

So long as Lessee is not in Default hereunder, Lessor shall not interfere with Lessee's use, quiet enjoyment or possession of the Equipment during the term of this Lease. Any Assignee of the Lessor hereunder shall acknowledge the Lessee's Right of Quiet Enjoyment.

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed by their respective officers thereunder duly authorized and the corporate seals to be hereto affixed as of the day and year first above written.

FUNDING SYSTEMS RAILCARS LEASING, INC.

(CORPORATE SEAL)

By James B. Klein
Vice President Lessee

ATTEST:

John D. Wherry
Assistant Secretary

TRANSPORTATION CORPORATION OF AMERICA

(CORPORATE SEAL)

By John P. Hest
Vice President Lessor

JH2

ATTEST:

James P. Small
John D. Wherry JAT
Assistant Secretary

GUARANTEE

WHEREAS FSC Corporation ("Guarantor") has requested that Transportation Corporation of America ("Lessor") and Funding Systems Railcars Leasing, Inc. ("Lessee") enter into the foregoing "Equipment Lease", of which this Guarantee is a part;

WHEREAS Lessor, as a condition precedent to entering into said Equipment Lease, has requested and requires that the Guarantor unconditionally guarantee payment to Lessor of all rental and moneys due and to become due to Lessor from Lessee under the terms of said Equipment Lease ("Obligations").

NOW, therefore, the Guarantor hereby unconditionally guarantees and promises to pay to Lessor, on demand, all of the Obligations.

Guarantor hereby waives any right to require Lessor to proceed against Lessee, proceed against or exhaust any security held, or to pursue any other remedy whatsoever against Lessee or against the equipment which is the subject of the Equipment Lease. The Guarantor waives any defense arising by reason of any disability or other defense of Lessee or by reason of the cessation from any cause whatsoever of the liability of the Lessee. The Guarantor also waives all notices of acceptance of this Guarantee.

Any indebtedness of the Lessee now or hereafter held by or due to the Guarantor is hereby subordinated to this Guarantee.

Guarantor may without Lessor's consent assume all the rights of the Lessee under the Equipment Lease.

The Guarantor agrees to pay reasonable attorneys fees and all other costs and expenses which may be incurred by Lessor in the enforcement of this Guarantee.

IN WITNESS WHEREOF, the undersigned Guarantor has executed this Guarantee on this June 10, 1980.

FSC CORPORATION

By: _____

James B. Klein
Vice President

ATTEST:

John D. Kelly
Assistant Secretary

(CORPORATE SEAL)

STATE OF PENNSYLVANIA)
COUNTY OF ALLEGHENY) SS

On this 14TH day of AUGUST, 1980 before me personally appeared JAMES B. SHEIN, to me personally known, who being by me duly sworn, says that he is President of Funding Systems Railcars Leasing Inc., that one of the seals affixed to the foregoing is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Dolores M. LaQuatra
Notary Public

(SEAL)

My Commission Expires:
DOLORES M. LAQUATRA, Notary Public
O'HARA TWP., ALLEGHENY COUNTY
MY COMMISSION EXPIRES NOV. 22, 1982
Member, Pennsylvania Association of Notaries

STATE OF ILLINOIS)
COUNTY OF COOK.) SS

On this 15th day of August, 1980 before me personally appeared J. P. LYNCH, to me personally known, who being by me duly sworn, says that he is a Vice President of Transportation Corporation of America, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Denise L. Kuey DK
Notary Public

(SEAL)

My Commission Expires:

1/11/81

SCHEDULE A

DESCRIPTION OF ITEMS OF EQUIPMENT

Manufacturer:	THRALL CAR MANUFACTURING COMPANY
Plant of Manufacturer:	CHICAGO HEIGHTS, ILLINOIS
Description of Equipment:	150 ITEMS OF EQUIPMENT --- EACH BEING A 100-TON, 51'6" GONDOLA CAR
Specifications:	GN-100-52-255
Car Numbers:	WSOR-5014 to WSOR-5163, BOTH INCLUSIVE
Approximate Lessor's Cost Per Item of Equipment:	\$41,000.00
Deliver To:	LESSEE'S AGENT
Place of Delivery:	EAST CHICAGO, INDIANA
Estimated Delivery Date:	AUGUST, 1980
Outside Delivery Date:	SEPTEMBER, 1980

FIXED RENTAL PAYMENTS

"Fixed Rental" is \$1,335.00 per car per Quarter for 60 consecutive Quarters, subject to the following two potential increases: From and including the 21st Quarter and also from and including the 41st Quarter of the subject Lease Term, an amount will be added to the Fixed Rental due each Quarter through the end of the Lease Term so that the Lessee and the Lessor will, thereafter, share equally throughout the Lease Term, any increase above the "Base Earnings".

In the event the "Incentive Per Diem" is eliminated prior to the first day of the 21st Quarter, the Base Earnings shall be

FIXED RENTAL PAYMENTS

(continued)

the amount of earnings which would be produced based on the "Set Utilization Factor", using the Car Hire Rate Table that became effective as of the date of the Incentive Per Diem was removed. To determine if an increase exists as of the first day of the 21st Quarter, that Base Earnings is compared to a "New Earnings" calculated for the 21st Quarter, based on the Set Utilization Factor and the Car Hire Rate Table effective on the first day of the 21st Quarter.

In the event the Incentive Per Diem is not eliminated prior to the first day of the 21st Quarter, the Base Earnings shall be the amount of earnings which would be produced based on the Set Utilization Factor, using the Car Hire Rate Table inclusive of Incentive Per Diem in effect on July 1, 1980. To determine if an increase exists as of the first day of the 21st Quarter, that Base Earnings is compared to a "New Earnings" calculated for the 21st Quarter, based on the Set Utilization Factor and Incentive Per Diem in effect on the first day of the 21st Quarter.

In the event the Incentive Per Diem is not eliminated prior to the first day of the 21st Quarter, but is eliminated prior to the first day of the 41st Quarter, the Base Earnings shall be that amount of earnings which would be produced based on the Set Utilization Factor, using the Car Hire Rate Table that became effective on the date the Incentive Per Diem was removed. To determine if an increase exists as of the first day of the 41st Quarter, that Base Earnings is compared to a "New Earnings" calculated for the 41st Quarter, based on the Set Utilization Factor and the Car Hire Rate Table, effective on the first day of the 21st Quarter.

FIXED RENTAL PAYMENTS

(continued)

In the event the Incentive Per Diem is not eliminated prior to the first day of the 41st Quarter, the Base Earnings shall be the amount of earnings which would be produced based on the Set Utilization Factor, using the Car Hire Rate Table inclusive of Incentive Per Diem in effect on July 1, 1980. To determine if an increase exists as of the first day of the 41st Quarter, that Base Earnings is compared to a "New Earnings" calculated for the 41st Quarter, based on the Set Utilization Factor and the Incentive Per Diem in effect on the first day of the 21st Quarter.

In the event the aforementioned calculations establish an increase as of the first day of the 21st Quarter, that increase is divided in half and then added to the Fixed Rental due for the 21st, through and including, the 40th Quarters.

In the event the aforementioned calculations establish an increase as of the first day of the 41st Quarter, that increase is divided in half and then added to the Fixed Rental due for the 41st, through and including, the 60th Quarters.

As used herein, "Set Utilization Factor" means a 75% utilization of a 24-hour day and a 365-day year, plus 1,000 miles per month.

SCHEDULE B

(EQUIPMENT LEASE DATED AS OF

CERTIFICATE OF ACCEPTANCE

TO: Transportation Corporation of America ("Lessor")

Thrall Car Manufacturing Company ("Manufacturer")

I, a duly appointed inspector and authorized representative of COMPANY ("Lessee") do hereby certify that I have inspected, received, approved and accepted delivery on behalf of the Lessee and under the Equipment Lease dated as of between the Lessor and the Lessee, of the following Items of Equipment ("Equipment"):

TYPE OF EQUIPMENT: 100 Ton 52'-6" Gondola Cars

MANUFACTURER: Thrall Car Manufacturing Company

PLACE ACCEPTED:

DATE ACCEPTED:

NUMBER OF ITEMS:

CAR NUMBERS:

I do further certify that the foregoing Equipment is in good order and condition and conforms to the Specifications applicable thereto, and at the time of delivery to the Lessee there was plainly, distinctly, permanently and conspicuously marked in contrasting colors upon each side of each Item of Equipment the following legend in letters not less than one inch in height:

"Leased from Transportation Corporation of America
as Lessor, and subject to a security interest
recorded with the Interstate Commerce Commission."

The execution of this Certificate will in no way relieve or decrease the responsibility of the Manufacturer of the Equipment for warranties it has made with respect to the Equipment.

Inspector and Authorized Representative
of Lessee

SCHEDULE C

(EQUIPMENT LEASE DATED AS OF

July 31
~~June 10~~, 1980)

WARRANTY AGREEMENT

THIS AGREEMENT dated as of July 31, 1980 between Transportation Corporation of America, an Illinois corporation ("Lessor"), and Thrall Car Manufacturing Company, a Delaware corporation ("Thrall");

W I T N E S S E T H :

WHEREAS, the Lessor has agreed to purchase 90 Items of railroad equipment described as 100 ton 52'-6" Gondola Cars built in accordance with specifications GN-100-52-255 and conform to all applicable United States Department of Transportation and Interstate Commerce Commission requirements and specifications; and

WHEREAS, the Lessor and Thrall desire to establish all warranties of every kind and nature, both express and implied within the confines of this document;

NOW, THEREFORE, in consideration of the premises, the Thrall and the Lessor agree that the warranty from Thrall to Lessor relating to the above described units of railroad equipment is as follows:

THRALL GUARANTEES TO BUILD THE ABOVE DESCRIBED UNITS OF RAILROAD EQUIPMENT IN ACCORDANCE WITH THE SPECIFICATIONS ABOVE NAMED AND (EXCEPT AS TO ITEMS NOT MANUFACTURED BY THRALL) THAT THOSE UNITS OF RAILROAD EQUIPMENT WILL BE FREE FROM DEFECT IN MATERIAL AND WORKMANSHIP UNDER NORMAL USE AND SERVICE.

THRALL'S OBLIGATIONS UNDER THIS WARRANTY SHALL BE LIMITED TO MAKING GOOD AT ITS PLANTS OR AT A REPAIR FACILITY DESIGNATED BY THRALL (PROVIDED, HOWEVER, THAT SUCH DESIGNATION BY THRALL SHALL BE IN GOOD FAITH AND REASONABLE UNDER THE CIRCUMSTANCES) ANY PART OR PARTS OF ANY UNITS OF RAILROAD EQUIPMENT WHICH SHALL WITHIN ONE YEAR AFTER DELIVERY OF ANY SUCH UNITS OF RAILROAD EQUIPMENT BE SO RETURNED TO THRALL WITH TRANSPORTATION CHARGES PREPAID, AND WHICH THRALL'S EXAMINATION SHALL DISCLOSE TO ITS SATISFACTION TO HAVE BEEN THUS DEFECTIVE.

THIS WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND OF ALL OTHER OBLIGATIONS OR LIABILITIES ON THE PART OF THRALL.

Thrall agrees that as to any design it developed or as to any part or parts it manufactured, it will indemnify and protect and hold harmless the Lessee from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and reasonable attorneys' fees, in any manner imposed upon or accruing against the Lessee or the Lessor because of use in or about the construction or operation of any Item of Equipment of any design, process, combination, article or material infringing or claimed to infringe on any patent or other right. The Lessee, as a condition to its being a third party beneficiary hereof, will give notice to Thrall of any claim known to the Lessee on the basis of which liability may be charged against Thrall hereunder.

In case any of the Units of Railroad Equipment are determined to infringe on any patent or other similar right in respect of which liability may be charged against Thrall and the use of any such Unit of Railroad Equipment is enjoined, Thrall shall, at its own expense, at its option, either procure for the Lessee, its successors and assigns the right to continue using such Units of Railroad Equipment or replace same with non-infringing Units of Railroad Equipment of similar value and utility or modify same so as to become non-infringing.

The parties hereto agree that the above specified warranty may be asserted and enforced, from time to time, by

against Thrall pursuant to an equipment lease relating to subject units of railroad equipment wherein Transportation Corporation of America is Lessor and
is Lessee.

IN WITNESS WHEREOF, the parties hereto have affixed their hands and seals on the date first above written.

ATTEST:

James A. Daniel
Assistant Secretary
(CORPORATE SEAL)

JAT

THRALL CAR MANUFACTURING COMPANY
a Delaware corporation

By: James I. Stalck
Vice President

JFW

ATTEST:

James A. Daniel
Assistant Secretary

JAT

By: John H. [Signature]
Vice-President

JPL

(CORPORATE SEAL)

TRANSPORTATION CORPORATION OF AMERICA
an Illinois corporation

STATE OF ILLINOIS)
)
COUNTY OF COOK)

On this 14th day of APRIL, 1982, I hereby certify that I have compared the attached copy of the Management Agreement between Wisconsin & Southern Railroad Company ("Manager") and Transportation Corporation of America ("Owner") dated April 12, 1982 with the original and have found the copy to be complete and identical in all respects to the original document.

[Seal]

My Commission Expires Jan. 27, 1985
Sharon Schumacher
Notary Public

My commission expires My Commission Expires Jan. 27, 1985